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Attorneys for Claimants/Respondents and  
Plaintiffs MATTHEW ISHAM, individually and  
as Guardian ad Litem for, HAYDEN ISHAM,  
a minor and ROXANNE BEST ISHAM

## UNITED STATES DISTRICT COURT

## DISTRICT OF HAWAII

[illegible]

MATTHEW ISHAM, ) CIVIL NO.: CV 04 00559 HG-BMK  
individually and as Guardian Ad )  
Litem for HAYDEN ISHAM, a )  
minor; ROXANNE BEST )  
ISHAM, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
BLUE DOLPHIN CHARTERS, )  
LTD. and BLUE DOLPHIN )  
DIVING, LTD., CAPTAIN )  
ANDY'S SAILING, INC., )  
DOES 1 - 50, )  
)  
Defendants. )  
)

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DENNIS CLAYPOOL, ) CIVIL NO.: CV 04 00570 HG-BMK  
individually and as Guardian ad )  
Litem for KRISTEN )  
CLAYPOOL, a minor, SHERYL )  
CLAYPOOL, SCOTT )  
CLAYPOOL, AND KRISTEN )  
CLAYPOOL, )  
)  
Plaintiffs, )  
)  
vs. )  
)  
CAPTAIN ANDY'S SAILING, )  
INC., BLUE DOLPHIN )  
CHARTERS, LTD. And BLUE )  
DOLPHIN DIVING, LTD., )  
)  
Defendants. )  
)

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MEMORANDUM IN SUPPORT OF PLAINTIFF/LIMITATION  
CLAIMANT MATTHEW ISHAM'S MOTION FOR  
JUDGMENT ENFORCING LIABILITY ON BOND

I. ARGUMENT.

Whenever a party provides security in the form of a bond or undertaking pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims, the surety for such bond or undertaking submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as the surety's agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. F.R.C.P. 65.1. The surety's liability may be enforced on motion without the necessity of an independent action. Id.

On January 21, 2005, Blue Dolphin Charters, Ltd. and Terry Donnelly filed with the Court a bond with approved surety in the amount of \$435,000.00 with interest thereon at the rate of 6% per annum from the date of the security. Declaration of Steven M. McGuire, ¶A. On March 2, 2006, the Court entered judgment against Blue Dolphin Charters, Ltd. and Terry Donnelly in the amount of two million nine hundred and seventy five thousand dollars (\$2,975,000.00) as stated in the Amended Offer to Allow Money Judgment to be Taken Against Limitation Plaintiff/Defendants Blue Dolphin Charters, Ltd. and Terry Donnelly in Favor of Matthew Isham, Individually Under Fed. Rule Civ. P. 68 filed February 17, 2006. Declaration of Steven M. McGuire, ¶¶ B, C.

Pursuant to the matters set forth hereinabove, Plaintiff/Limitation Claimant Matthew Isham, Individually, respectfully requests that the Court enter judgment against the surety American Home Assurance Company in the amount of \$435,000.00 with interest thereon from the date of security.

Dated: Redondo Beach, California, March 3<sup>rd</sup>, 2006.

LESSER & ASSOCIATES, PLC

/s/ Steven M. McGuire  
STEVEN M. McGUIRE  
Attorneys for Claimants/Respondents  
and Plaintiffs MATTHEW ISHAM, individually  
and as Guardian ad Litem for, HAYDEN ISHAM,  
a minor and ROXANNE BEST ISHAM

C:\Cases\Isham\Memorandum re Isham's Motion for Judgment.wpd